

EXHIBITS 1–6
TO DECLARATION OF JEFFREY B.
COOPERSMITH

EXHIBIT 1

In re Arizona Theranos, Inc. Litigation

Videotaped Deposition of
DR. JAY ROSAN

May 16, 2019

CONFIDENTIAL



Confidential

Dr. Jay Rosan

In re Arizona Theranos, Inc. Litigation

Page 1	Page 2
<p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF ARIZONA</p> <p>3 CIVIL ACTION NO. 2:16-cv-2138-HRH</p> <p>4 - - -</p> <p>5 :</p> <p>6 IN RE ARIZONA THERANOS, INC.:</p> <p>7 LITIGATION :</p> <p>8 - - -</p> <p>9 ***CONFIDENTIAL***</p> <p>10 Videotaped deposition of DR. JAY ROSAN,</p> <p>11 taken pursuant to notice, held in the LAW OFFICES</p> <p>12 OF DUANE MORRIS, LLP, 30 South 17th Street,</p> <p>13 Philadelphia, Pennsylvania, on Thursday, May 16,</p> <p>14 2019, beginning at approximately 10:20 a.m.,</p> <p>15 before Robin A. Vance, a Certified Court Reporter</p> <p>16 and Notary Public for the states of New Jersey,</p> <p>17 Pennsylvania and Delaware.</p> <p>18 - - -</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Reported By:</p> <p>23 Robin A. Vance, CCR</p> <p>24 CCR-NJ License No. XI 02131</p> <p>25 Job No. 10054876</p>	<p>1 A P P E A R A N C E S :</p> <p>2</p> <p>3 LIEFF CABRASER HEIMANN & BERNSTEIN</p> <p>4 BY: MELISSA A. GARDNER, ESQUIRE</p> <p>5 275 Battery Street, 29th Floor</p> <p>6 San Francisco, CA 94111-3339</p> <p>7 415-956-1000</p> <p>8 Mgardner@lchb.com</p> <p>9 Attorneys for Consumer Plaintiffs</p> <p>10</p> <p>11 KELLER ROHRBACK, LLP</p> <p>12 BY: TANYA KORKHOV, ESQUIRE</p> <p>13 1140 Avenue of the Americas</p> <p>14 Ninth Floor</p> <p>15 New York, NY 10036</p> <p>16 646-380-6690</p> <p>17 Tkorkhov@kellerrohrback.com</p> <p>18 Attorneys for Consumer Plaintiffs</p> <p>19</p> <p>20 DUANE MORRIS, LLP</p> <p>21 BY: STEPHEN H. SUTRO, ESQUIRE</p> <p>22 Spear Tower</p> <p>23 One Market Plaza, Suite 2200</p> <p>24 San Francisco, CA 94105-1127</p> <p>25 415-957-3008</p> <p>Shsutro@duanemorris.com</p> <p>Attorneys for Dr. Jay Rosan</p> <p>DAVIS WRIGHT TREMAINE, LLP</p> <p>BY: STEPHEN M. RUMMAGE, ESQUIRE</p> <p>920 Fifth Avenue, Suite 3300</p> <p>Seattle, Washington 98104-1610</p> <p>206-757-8136</p> <p>Steverummage@dw.com</p> <p>Attorneys for Ramesh Balwani</p> <p>DAVIS WRIGHT TREMAINE, LLP</p> <p>BY: KELLY M. GORTON, ESQUIRE</p> <p>505 Montgomery Street, Suite 800</p> <p>San Francisco, CA 94111-6533</p> <p>415-276-6584</p> <p>Kellygorton@dw.com</p> <p>Attorneys for Ramesh Balwani</p>
Page 3	Page 4
<p>1 APPEARANCES CONTINUED:</p> <p>2</p> <p>3 SIDLEY AUSTIN, LLP</p> <p>4 BY: KRISTEN R. SEBGER, ESQUIRE</p> <p>5 LAWRENCE P. FOGEL, ESQUIRE</p> <p>6 One South Dearborn</p> <p>7 Chicago, IL 60603</p> <p>8 312-853-7450</p> <p>9 312-853-6892</p> <p>10 Kseeger@sidley.com</p> <p>11 Lawrence.fogel@sidley.com</p> <p>12 Attorneys for Walgreens</p> <p>13</p> <p>14 Also Present: Raymond Lerro, Videographer</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 I N D E X</p> <p>2 WITNESS PAGE</p> <p>3 DR. JAY ROSAN</p> <p>4 Examination by</p> <p>5 MS. GARDNER 8, 328</p> <p>6 MR. RUMMAGE 228</p> <p>7 - - -</p> <p>8 EXHIBITS</p> <p>9 No. DESCRIPTION PAGE</p> <p>10 Exhibit 214 Subpoena 9</p> <p>11 Exhibit 215 Document - Bates WG006129 27</p> <p>12 Exhibit 216 Document - Bates WG000368 60</p> <p>13 Exhibit 217 Email Chain - Bates WG031043 80</p> <p>14 Exhibit 218 Email Chain - Bates WG000572 90</p> <p>15 Exhibit 219 Meeting and Agenda Minutes</p> <p>16 Bates WGO39882 112</p> <p>17</p> <p>18 Exhibit 220 Email - Bates WGO05122 125</p> <p>19 Exhibit 221 Email - Bates WGO00058 129</p> <p>20</p> <p>21 Exhibit 222 Theranos Meeting Minutes</p> <p>22 Bates WGO00059 130</p> <p>23 Exhibit 223 Email - Bates THER-AZ-06086006 147</p> <p>24 Exhibit 224 Email Chain - Bates WGO06181 168</p> <p>25 Exhibit 225 Email/Executive Meeting Notes</p> <p>Bates WGO18950 178</p> <p>Exhibit 226 Email - Bates WGO31844 189</p> <p>Exhibit 227 Email - Bates WGO06173 191</p> <p>Exhibit 228 Email - Bates WGO01117 196</p>

<p style="text-align: right;">Page 105</p> <p>1 When you say you had a machine, you don't know</p> <p>2 what Theranos would have called it, right?</p> <p>3 A. No.</p> <p>4 Q. Okay. And can you briefly describe</p> <p>5 how you would use that machine?</p> <p>6 A. I would draw blood studies from a</p> <p>7 finger-stick of a person, type that into the</p> <p>8 cartridge, put the cartridge in the machine, and</p> <p>9 push a button that said on.</p> <p>10 Q. And then test results would be</p> <p>11 generated, and I think you earlier said sent to</p> <p>12 you by e-mail?</p> <p>13 A. Yes, correct.</p> <p>14 Q. Okay. Did you need to calibrate that</p> <p>15 device at any time?</p> <p>16 A. I don't -- I don't believe so.</p> <p>17 Q. Did you get written procedures for</p> <p>18 operating the device?</p> <p>19 A. Yes. It wasn't that hard to operate.</p> <p>20 Q. How many cartridges did you have?</p> <p>21 A. I don't remember.</p> <p>22 Q. What tests did the device that you had</p> <p>23 run?</p> <p>24 A. If I remember, it did sugar test, a</p> <p>25 glucose test, influenza test, I think sodium,</p>	<p style="text-align: right;">Page 106</p> <p>1 potassium. I don't remember what else.</p> <p>2 Q. Did you need to perform any kind of</p> <p>3 quality control procedures on the device?</p> <p>4 A. No.</p> <p>5 Q. How long did you have it?</p> <p>6 A. I don't remember.</p> <p>7 Q. Do you think it was more than a year?</p> <p>8 A. Around a year.</p> <p>9 Q. Did anybody service the device during</p> <p>10 the time that you had it?</p> <p>11 A. No.</p> <p>12 Q. Did Miss Holmes make any</p> <p>13 representations to you about pharmaceutical</p> <p>14 companies and Theranos?</p> <p>15 A. I'm sorry, I couldn't hear what you</p> <p>16 were saying.</p> <p>17 Q. Did Miss Holmes make any</p> <p>18 representations to you about pharmaceutical</p> <p>19 companies and Theranos?</p> <p>20 A. Yes.</p> <p>21 Q. And what were those representations?</p> <p>22 A. That the pharmaceutical -- 10 of the</p> <p>23 15 biggest pharmaceutical companies were using</p> <p>24 their technology.</p> <p>25 Q. Did you believe those representations?</p>
<p style="text-align: right;">Page 107</p> <p>1 A. Yes.</p> <p>2 Q. Do you believe them today?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Did you take any steps to confirm</p> <p>5 those representations?</p> <p>6 A. I asked for documentation and I got</p> <p>7 letters from pharmaceutical companies showing</p> <p>8 documentation.</p> <p>9 Q. Did you receive 10 letters?</p> <p>10 A. No.</p> <p>11 Q. Were the pharmaceutical -- did they --</p> <p>12 did the letters make any reference to using</p> <p>13 Theranos in a clinical setting?</p> <p>14 A. Yes.</p> <p>15 Q. What did they say?</p> <p>16 A. I think they're one of the</p> <p>17 documents -- one of the forms here. I don't</p> <p>18 remember off the top of my head, but basically</p> <p>19 saying they were using Theranos machines, devices</p> <p>20 to run tests for clinical trials.</p> <p>21 Q. Did you speak with any of the authors</p> <p>22 of the letters?</p> <p>23 A. No.</p> <p>24 Q. Do you know if anybody at Walgreens</p> <p>25 spoke with the authors of the letters?</p>	<p style="text-align: right;">Page 108</p> <p>1 A. I don't really know.</p> <p>2 Q. Are you certain today that the letters</p> <p>3 actually came from pharmaceutical companies?</p> <p>4 A. No.</p> <p>5 Q. I'm going to hand you an exhibit that</p> <p>6 has previously been marked as 148. Doctor,</p> <p>7 you've seen this e-mail before, correct?</p> <p>8 A. Yes.</p> <p>9 Q. There's a reference in an e-mail</p> <p>10 from -- so, it's Exhibit-148. And in the second</p> <p>11 sentence of the lowermost paragraph on the page,</p> <p>12 there's a reference that says, "Sunny and he went</p> <p>13 at it a little back in the early days."</p> <p>14 And I'm going to ask, is Sunny</p> <p>15 here, Sunny Balwani?</p> <p>16 A. Are you asking me a question? I'm</p> <p>17 sorry.</p> <p>18 Q. Yeah.</p> <p>19 A. Go ahead.</p> <p>20 Q. Is the reference to Sunny in this</p> <p>21 e-mail, Sunny Balwani?</p> <p>22 A. Yes.</p> <p>23 Q. And is the reference to he in this</p> <p>24 e-mail Kevin Hunter?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 233</p> <p>1 on like an official tour where you were being</p> <p>2 pointed out specific things or were you just</p> <p>3 walking around?</p> <p>4 A. Primarily walking around.</p> <p>5 Q. You said when you went into the lab</p> <p>6 one time, you went with Mr. Finnegan; is that</p> <p>7 right?</p> <p>8 A. I believe so, yes.</p> <p>9 Q. Do you know whether he went more than</p> <p>10 once?</p> <p>11 A. I don't know.</p> <p>12 Q. And my recollection is that you</p> <p>13 testified that Mr. Finnegan had worked for a</p> <p>14 blood testing company; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. What company was that?</p> <p>17 A. I think it was Quest, but I'm not</p> <p>18 sure.</p> <p>19 Q. All right. And as between the two of</p> <p>20 you, did you have an understanding as to who was</p> <p>21 more familiar with blood testing processes and</p> <p>22 laboratory processes?</p> <p>23 A. Yes.</p> <p>24 Q. Who?</p> <p>25 A. He.</p>	<p style="text-align: right;">Page 234</p> <p>1 Q. He was more familiar?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall whether he asked</p> <p>4 questions when you went through the lab?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you know where he is today?</p> <p>7 A. He's -- I forget.</p> <p>8 Q. Okay. I also want to talk a little</p> <p>9 bit about the devices that were provided to</p> <p>10 Walgreens. And I said that in plural, so maybe</p> <p>11 I'm presupposing something. Did Walgreens have</p> <p>12 more than one device that it was able to run</p> <p>13 cartridges on?</p> <p>14 A. Theranos devices?</p> <p>15 Q. Yes.</p> <p>16 A. Two.</p> <p>17 Q. Two. And I believe you testified to</p> <p>18 Ms. Gardner that you weren't sure when you got</p> <p>19 those; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. Do you recall why you got those?</p> <p>22 A. To do samples.</p> <p>23 Q. Was that at your request?</p> <p>24 A. Yes.</p> <p>25 Q. And who did you make that request to?</p>
<p style="text-align: right;">Page 235</p> <p>1 A. Either Elizabeth or Sunny.</p> <p>2 Q. And they accommodated it?</p> <p>3 A. Yes.</p> <p>4 Q. And when you got the devices, were any</p> <p>5 restrictions placed on you in what you could do</p> <p>6 with them?</p> <p>7 A. Just the tests that I had cartridges</p> <p>8 for.</p> <p>9 Q. All right. And how did you get the</p> <p>10 cartridges?</p> <p>11 A. From Theranos.</p> <p>12 Q. Did you -- what would happen when you</p> <p>13 ran out?</p> <p>14 A. I would order more.</p> <p>15 Q. And did they give you more?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Did you request specific</p> <p>18 cartridges?</p> <p>19 A. No.</p> <p>20 Q. In other words -- okay. So, you just</p> <p>21 took whatever tests it was that they sent you?</p> <p>22 A. Yes.</p> <p>23 Q. And you understood that the cartridges</p> <p>24 could only do specific assays, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 236</p> <p>1 Q. And that would be limited by the</p> <p>2 reagents that were on the cartridges?</p> <p>3 A. Correct.</p> <p>4 Q. Did you ever have any concerns about</p> <p>5 the cartridges that were sent to you?</p> <p>6 A. No.</p> <p>7 Q. So, where exactly were the two</p> <p>8 machines located, if you can recall?</p> <p>9 A. One was in my office and one was in</p> <p>10 Deerfield.</p> <p>11 Q. And Deerfield is Walgreens</p> <p>12 headquarters; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. So, when you say your office, do you</p> <p>15 mean physically the -- the four corners that you</p> <p>16 sat within, or just generally within the same</p> <p>17 office space that you shared with others?</p> <p>18 A. No, in my office, my physical office.</p> <p>19 Q. In your physical office. And how</p> <p>20 often did you use it?</p> <p>21 A. I don't remember.</p> <p>22 Q. Okay. How often did you test</p> <p>23 yourself?</p> <p>24 A. Occasionally.</p> <p>25 Q. And what does occasionally mean in</p>

1 that context?

2 A. In the beginning I -- probably every

3 couple weeks.

4 Q. And when you say "in the beginning,"

5 define for me --

6 A. When I first had it.

7 Q. Okay. Is that over a period of

8 several months that you did it every couple of

9 weeks?

10 A. No. In the beginning, first month or

11 so.

12 Q. Okay. And by the way, when they

13 arrived, how were they set up?

14 A. I don't understand the question.

15 Q. Well, let me kind of make it more

16 fundamental. How did they arrive?

17 A. They came by UPS.

18 Q. In a box?

19 A. In a box.

20 Q. Who unpacked it?

21 A. Me.

22 Q. Who set it up?

23 A. Me.

24 Q. And what instructions did you have to

25 set it up?

1 A. Yes.

2 Q. And what did you use it for?

3 A. Tests.

4 Q. On who?

5 A. Different people.

6 Q. On yourself?

7 A. No.

8 Q. So, the one in Deerfield you never

9 tested yourself?

10 A. Correct.

11 Q. And were you responsible for ordering

12 cartridges when they ran out in the Deerfield

13 machine?

14 A. No.

15 Q. Who did that, do you know?

16 A. Kim.

17 Q. Kim. By the way, did -- did they ever

18 turn you down when you asked for cartridges?

19 A. No.

20 Q. Do you recall what tests or assays you

21 ran?

22 A. No.

23 Q. Do you recall how many different types

24 of cartridges you ran over time?

25 A. I think there were three.

1 A. I -- if I'm not mistaken, there was an

2 instruction sheet.

3 Q. And so, just kind of like when you get

4 something from Ikea, you open the box and you

5 follow the instruction sheet and set it up?

6 A. Easier than Ikea.

7 Q. Easier than Ikea. That's a low bar.

8 A. I --

9 MR. SUTRO: I don't know.

10 MS. SEEGER: Ikea is hard.

11 MR. RUMMAGE: I know, that's why I

12 said it.

13 THE WITNESS: That's why he's

14 right.

15 MR. RUMMAGE: It's a low bar.

16 BY MR. RUMMAGE:

17 Q. Okay. And do you know how the one

18 that went to Deerfield was delivered?

19 A. Same.

20 Q. Do you know who set that up?

21 A. I think it was Kim Romanski.

22 Q. Okay. And do you know where it was in

23 Deerfield?

24 A. In a cubicle.

25 Q. Did you ever use that?

1 Q. Three different types?

2 A. (Indicating).

3 Q. You're nodding your head yes?

4 A. Yes.

5 Q. Okay.

6 A. Sorry.

7 Q. Just as a reminder?

8 A. Yes, sorry.

9 Q. Okay. And just for my information,

10 sometimes, as I understand it, blood tests

11 essentially are just a yes or no value, sometimes

12 they return numeric values. You know what I

13 mean?

14 A. Yes.

15 Q. And did the tests that you ran on the

16 device, did some of them return numeric values?

17 A. Yes.

18 Q. And did some of them return yes or no

19 values?

20 A. Yes.

21 Q. All right. And by the way, all of

22 these tests that you ran on this device, let's

23 start first with your device, the one that was in

24 your office, you did that without a Theranos

25 employee present?

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1 A. Yes.

2 Q. And did you ever have, in the course

3 of running those tests, anything occur that made

4 you doubt the viability of the technology?

5 A. No.

6 Q. And do you know whether the tests that

7 were run in Deerfield were run without a Theranos

8 employee present?

9 A. There was no Theranos employee.

10 Q. And did you ever get reports from your

11 colleagues in Deerfield that, in running the

12 tests on the device, they were concerned about

13 the viability of the technology?

14 A. No.

15 Q. So, can I sum up fairly and say that

16 the experience you had in running tests on the

17 devices that Walgreens had was a positive

18 experience?

19 MS. GARDNER: Objection.

20 THE WITNESS: There were -- there

21 were no problems.

22 BY MR. RUMMAGE:

23 Q. There were no problems. Did it

24 reenforce your view of the viability of the

25 technology?

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1 A. A whole series of people. I don't

2 recall specifically who.

3 Q. Well, let me just throw some names out

4 at you. Did Mark Vainisi?

5 A. I don't remember.

6 Q. How about Wade Miquelon?

7 A. Miquelon.

8 Q. Miquelon, I'm sorry.

9 A. Yes, I believe he did.

10 Q. How about Brad Wasson?

11 A. I believe he did.

12 Q. How about Greg Wasson?

13 A. I don't remember about Greg Wasson.

14 Q. Okay. Kim Romanski?

15 A. Yes.

16 Q. And did any of them express concerns

17 to you about the results that came back on the

18 tests?

19 A. No.

20 Q. And by the way, you mentioned earlier

21 that when you ran the tests, the results would

22 come to you. I assume that was true for the unit

23 that was in your office; is that correct, that

24 the test results would come back to you?

25 A. Yes.

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1 A. Yes.

2 Q. And again, to stress, Theranos didn't

3 tell you that you couldn't run tests more

4 frequently than X number of times a week; is that

5 right?

6 A. No.

7 Q. They didn't put any limitation on

8 that?

9 A. Except for the number of cartridges.

10 Q. Exactly. And I'm not sure I asked

11 this, but did you ever ask for cartridges for a

12 specific test or assay?

13 A. No.

14 Q. Is there any particular reason why

15 not?

16 A. Tests -- cartridges were given to me.

17 I didn't -- I didn't see the need for that

18 request.

19 Q. They seemed satisfactory to you?

20 A. Yes.

21 Q. And do you know, did any other

22 Walgreens executives have tests run on these two

23 machines?

24 A. Oh, yes.

25 Q. Who else, if you can recall?

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1 Q. And what about the test results for

2 the Deerfield unit; who would those go to?

3 A. Come back to me.

4 Q. And they would come by e-mail. Was it

5 just from an ordinary lab person at Theranos that

6 they came from or did they come from Sunny and

7 Elizabeth, who sent them?

8 A. No, there was a person at Theranos.

9 There was a -- there was a password protected,

10 HIPAA compliant system that was set up that I

11 could access to get that.

12 Q. Okay. And so, I think you mentioned

13 in response to questions from Ms. Gardner that

14 you actually were pipetting blood into the

15 cartridge; is that right?

16 A. In the beginning, yes.

17 Q. Okay. So, that actually anticipates

18 my question. Was there a point in time when you

19 started using a nanotainer?

20 A. Yes.

21 Q. And did the nanotainers work

22 satisfactorily for you?

23 A. They worked for me.

24 Q. And so, physically how would this

25 work? You prick your finger and collect the

Page 245

1 blood into the nanotainer, then what would you
 2 do?
 3 A. Put it into the cartridge.
 4 Q. And is that just a simple matter of
 5 inserting it into the cartridge?
 6 A. Yes.
 7 Q. And then what do you do with the
 8 cartridge?
 9 A. Put it in the machine, push the
 10 button.
 11 Q. And then it makes the whirring sound
 12 and that's it; is that right?
 13 A. Yes.
 14 Q. And then what do you do with the
 15 cartridge after that?
 16 A. Throw it in the trash.
 17 Q. And typically how long was it before
 18 you got results back?
 19 A. Usually the next day.
 20 Q. Did you ever request it faster than
 21 that?
 22 A. I don't remember.
 23 Q. Okay. By the way, you told us that
 24 you had examined upwards of, I think you may have
 25 said as many as 200 different companies that were

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1 Q. They didn't do immunity assays?
 2 A. Correct.
 3 Q. Okay. And by the way, did you ever
 4 get your test results -- strike that.
 5 Did you ever draw your blood, put
 6 it in the analyzer, send the stuff off to
 7 Theranos, and then go across the street to
 8 Labcorp or Quest and do the same test just to
 9 see?
 10 A. No.
 11 Q. Why not?
 12 A. Because I got routine tests a lot at
 13 those locations. I didn't need to do that
 14 because it was in a similar vein.
 15 Q. All right. And did you -- did you
 16 check the results that came back to you from
 17 Theranos kind of mentally to see whether they
 18 seemed consistent with your own health patterns?
 19 A. Yes.
 20 MS. KORKHOV: Objection.
 21 BY MR. RUMMAGE:
 22 Q. And what did you conclude?
 23 A. That they were similar.
 24 Q. Okay. Did you ever do any sort of
 25 testing of your own to maybe test somebody that

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1 operating in this space.
 2 A. Yes.
 3 Q. Was anybody else doing the sort of
 4 stuff that you saw that machine doing?
 5 MS. KORKHOV: Objection.
 6 THE WITNESS: Yes.
 7 BY MR. RUMMAGE:
 8 Q. And who else was doing that sort of
 9 thing?
 10 A. I don't remember the name of the
 11 company, but there was a company that we visited
 12 that was doing tests in a -- in a -- lab on a
 13 chip test. That's the technology.
 14 Q. Okay. And what distinguished the two
 15 in your mind?
 16 A. That company you're talking about?
 17 Q. Yes.
 18 A. And Theranos?
 19 Q. Yes.
 20 A. That company primarily did one test.
 21 Q. And what test was that?
 22 A. HIV.
 23 Q. And so, they didn't do general
 24 chemistry tests?
 25 A. Correct.

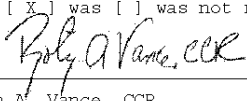
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1 you knew was unhealthy, that might have an out of
 2 range value on one of the tests you received?
 3 A. No.
 4 Q. Nothing prevented you from doing that,
 5 though, right?
 6 A. Well, I wouldn't test it on anybody
 7 except a Walgreens employee. And as a medical
 8 person, I didn't know the medical history of most
 9 of Walgreens employees because that was HIPAA
 10 compliant.
 11 Q. Okay. But nothing Theranos did
 12 prevented you from doing something like that,
 13 right?
 14 A. Correct.
 15 Q. And nothing Theranos did prevented you
 16 from running comparative tests, right?
 17 A. Correct.
 18 Q. Okay. And when you received results
 19 back from Theranos, you never received any
 20 indication that those results had somehow been
 21 doctored or made up, did you?
 22 A. No.
 23 Q. Okay. Let's -- I want to put a little
 24 bit of framework around the time.
 25 MR. RUMMAGE: Do you have tab 7?

Confidential

Dr. Jay Rosan

In re Arizona Theranos, Inc. Litigation

<p style="text-align: right;">Page 329</p> <p>1 advance at Walgreens stores?</p> <p>2 A. I -- I don't think they did.</p> <p>3 Q. So, to your knowledge, they were --</p> <p>4 they were all walk-in patients?</p> <p>5 A. I can't remember. I think there</p> <p>6 was -- there was a big discussion around that, so</p> <p>7 I just don't remember.</p> <p>8 Q. Did it happen, to your knowledge, that</p> <p>9 somebody would walk into a Walgreens expecting a</p> <p>10 finger-stick blood draw and then receive a venous</p> <p>11 blood draw?</p> <p>12 MS. SEEGER: Object to form.</p> <p>13 THE WITNESS: I don't remember that</p> <p>14 happening.</p> <p>15 BY MS. GARDNER:</p> <p>16 Q. You don't remember hearing about that?</p> <p>17 A. No.</p> <p>18 Q. Is it possible that that happened?</p> <p>19 MR. RUMMAGE: Object to the form.</p> <p>20 THE WITNESS: I think anything is</p> <p>21 possible.</p> <p>22 BY MS. GARDNER:</p> <p>23 Q. Great. I'm asking because earlier I</p> <p>24 understood you to testify in response to</p> <p>25 Mr. Rummage's questions that a patient was always</p>	<p style="text-align: right;">Page 330</p> <p>1 told before their blood draw what kind of blood</p> <p>2 draw they would get, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And I just want to confirm that the</p> <p>5 telling of the kind of blood draw they would get</p> <p>6 may have happened immediately before the blood</p> <p>7 draw; is that right? Like a patient could arrive</p> <p>8 at Walgreens, be sitting with a phlebotomist or a</p> <p>9 technician, and at that point when they're in the</p> <p>10 chair ready for their blood draw, learn that the</p> <p>11 draw would be different?</p> <p>12 A. I don't know when that occurred, when</p> <p>13 that telling occurred.</p> <p>14 Q. All right. I have no further</p> <p>15 questions. Thank you.</p> <p>16 A. Okay.</p> <p>17 MR. SUTRO: Thank you all.</p> <p>18 VIDEOGRAPHER: This concludes the</p> <p>19 video deposition of Dr. Jay Rosan in the</p> <p>20 matter of Arizona Theranos litigation.</p> <p>21 The time is 6:24 p.m. and we are off the</p> <p>22 record.</p> <p>23 - - -</p> <p>(Witness excused.)</p> <p>24 (Deposition concluded at approximately</p> <p>25 6:24 p.m.)</p>
<p style="text-align: right;">Page 331</p> <p>1 C E R T I F I C A T I O N</p> <p>2</p> <p>3 I hereby certify that the</p> <p>4 proceedings, evidence, and objections noted</p> <p>5 herein are contained fully and accurately in the</p> <p>6 stenographic notes taken by me upon the foregoing</p> <p>7 matter, and that this is a correct transcript of</p> <p>8 the same.</p> <p>9 Further, that if the foregoing pertains to</p> <p>10 the original transcript of a deposition in a federal</p> <p>11 case, before completion of the proceedings, review of</p> <p>12 the transcript [X] was [] was not requested.</p> <p>13</p> <p>14 </p> <p>15 Robin A. Vance, CCR</p> <p>16 CCR-NJ License No. XI 02131</p> <p>17 Notary Public</p> <p>18 City of Philadelphia, Philadelphia County</p> <p>19 Commission Expires 8/25/22</p> <p>20</p> <p>21 (The foregoing certification of this</p> <p>22 transcript does not apply to any reproduction of</p> <p>23 the same by any means, unless under the direct</p> <p>24 control and/or supervision of the certifying</p> <p>25 reporter.)</p>	<p style="text-align: right;">Page 332</p> <p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2 Case Name: In re Arizona Theranos, Inc. Litigation</p> <p>3 Date of Deposition: 05/16/2019</p> <p>4 Job No.: 10054876</p> <p>5</p> <p>6 I, DR. JAY ROSAN, hereby certify</p> <p>7 under penalty of perjury under the laws of the State of</p> <p>8 _____ that the foregoing is true and correct.</p> <p>9 Executed this _____ day of</p> <p>10 _____, 2019, at _____.</p> <p>11</p> <p>12 _____</p> <p>13</p> <p>14 DR. JAY ROSAN</p> <p>15</p> <p>16 NOTARIZATION (If Required)</p> <p>17 State of _____</p> <p>18 County of _____</p> <p>19 Subscribed and sworn to (or affirmed) before me on</p> <p>20 this _____ day of _____, 20____,</p> <p>21 by _____, proved to me on the</p> <p>22 basis of satisfactory evidence to be the person</p> <p>23 who appeared before me.</p> <p>24 Signature: _____ (Seal)</p> <p>25</p>

Page 329..332

EXHIBIT 2

Message

From: Wayne.Prince@Walgreens.com [Wayne.Prince@Walgreens.com]
Sent: 9/29/2010 3:10:26 PM
To: Daniel Young [/o=theranos organization/ou=first administrative group/cn=recipients/cn=dyoung]
CC: Renaat.VanDenHooft@Walgreens.com; Sunny Balwani [/o=theranos organization/ou=first administrative group/cn=recipients/cn=sbalwani]
Subject: RE: today's demo

Sweet! Then all is well in the world.

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)
[REDACTED] (c)
<http://www.linkedin.com/in/wayneprince>

"Daniel Young" <dyoung@theranos.com>
09/29/2010 10:09 AM

To <Wayne.Prince@Walgreens.com>
cc "Sunny Balwani" <sbalwani@theranos.com>,
<Renaat.VanDenHooft@Walgreens.com>
Subject RE: today's demo

Yes, we have heartbeats for devices 347 and 342.

Thanks,
Daniel

From: Wayne.Prince@Walgreens.com [mailto:Wayne.Prince@Walgreens.com]
Sent: Wednesday, September 29, 2010 7:57 AM
To: Daniel Young
Cc: Sunny Balwani; Renaat.VanDenHooft@Walgreens.com
Subject: RE: today's demo

Daniel,

Ok, I set up all the machines.

All have booted and assumed optimal operating temperature.

I removed the cartridge from 313. We made sure to transport it in the vertical position. I have since powered it down and boxed it up as that is the one we will ship back to you.

Do we have heartbeats on the other two?

Thanks,

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)
[REDACTED] (c)
<http://www.linkedin.com/in/wayneprince>
"Daniel Young" <dyoung@theranos.com>
09/29/2010 09:08 AM

To <Wayne.Prince@Walgreens.com>
cc "Sunny Balwani" <sbalwani@theranos.com>
Subject RE: today's demo

I'm glad it was a success. Thanks for keeping us updated.

-Daniel

From: Wayne.Prince@Walgreens.com [mailto:Wayne.Prince@Walgreens.com]
Sent: Wednesday, September 29, 2010 7:04 AM
To: Daniel Young
Cc: Sunny Balwani
Subject: Re: today's demo

Daniel,

The kickoff was a success.

The demos went fine. We shut the machines down in the middle of the assay. We spoke to Sunny about this last night. We had to move the machines back to our building that night and we didn't want to wait for the assays to complete and the business day was over.

Our expectation is that we will not get any usable results from the assays that were started late yesterday afternoon.

I am going to set the machines back up now. I will contact you once they seem to be ready to confirm connectivity.

Thanks,

Wayne Prince, PMP
Project Manager, Business Process Re-engineering
Corporate Innovation Team
847.964.8973 (w)

(c)
<http://www.linkedin.com/in/wayneprince>
"Daniel Young" <dyoung@theranos.com>
09/28/2010 06:08 PM

To <Wayne.Prince@Walgreens.com>
cc
Subject today's demo

Hi Wayne,

I hope the kickoff was a success and that the demo went smoothly for you. We have noted that device 342 has had spotty reception since the change in location today and we are concerned that all the data may not get transferred from this afternoon. Is it possible to power this device "on" again in the old location to ensure that all the data is transferred? If so, please let me know when you plan to do this.

Thanks!

Daniel Young, PhD
Director, Theranos Operating System and Computational Biosciences
Theranos, Inc
3200 Hillview Avenue
Palo Alto, Ca 94304
650-470-6119

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Theranos, Inc., 3200 Hillview Avenue, Palo Alto, CA, 94304
650-838-9292 www.theranos.com

EXHIBIT 3

Message

From: Sunny Balwani [/O=THERANOS ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=SBALWANI]
Sent: 10/13/2010 3:39:29 PM
To: Daniel Young [/o=theranos organization/ou=first administrative group/cn=recipients/cn=dyoung]
Subject: Fwd: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Fyi

Sent from my iPhone

Begin forwarded message:

From: Jay.Rosan@Walgreens.com
Date: October 13, 2010 5:49:07 AM PDT
To: Sunny Balwani <sbalwani@theranos.com>
Subject: Re: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Sunny, that is great but there is still one that I have not received 347.101011.02
Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED]
jay.rosan@walgreens.com

From: Sunny Balwani <sbalwani@theranos.com>
To: Jay Rosan <Jay.Rosan@Walgreens.com>
Date: 10/12/2010 07:43 PM
Subject: Re: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Dr. jay. We have automated this so now you don't need to send me emails for this. Daniel gets automotified and once our CMO has looked over the results, you will get the results automatically. If it doesn't work, you are always welcome to shoot me an email of course.

Thanks.

On 10/12/10 6:42 AM, "Jay Rosan" <Jay.Rosan@Walgreens.com> wrote:

Tx - how do we make this just automatic so that I don't have to bother you for results - I did another one later in the day.
Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED] c
jay.rosan@walgreens.com

From: Sunny Balwani <sbalwani@theranos.com>
To: Jay Rosan <Jay.Rosan@Walgreens.com>
Date: 10/11/2010 02:26 PM
Subject: RE: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Dr. Jay

Today's result was added to the attached summary. PASSWORD unchanged.

Thanks.
SRB.

From: Sunny Balwani
Sent: Monday, October 11, 2010 10:42 AM
To: Daniel Young
Cc: Elizabeth Holmes
Subject: Fwd: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

Daniel. Can u get the results and email to me asap. Thanks

Sent from my iPhone

Begin forwarded message:

From: <<mailto:Jay.Rosan@Walgreens.com>> <<mailto:Jay.Rosan@Walgreens.com>> >
Jay.Rosan@Walgreens.com <Jay.Rosan@Walgreens.com>
Date: October 11, 2010 7:22:35 AM PDT
To: Sunny Balwani <sbalwani@theranos.com> <sbalwani@theranos.com> >
Subject: Hey, I just did a demo with a VIP and I need the results as soon as they are done.

I would tell you the name but that would not be right but it is one of the highest individuals in the company. He is expecting me to walk in with the results within the hour.

J

Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o; [REDACTED]
jay.rosan@walgreens.com <jay.rosan@walgreens.com>

----- End of Forwarded Message[attachment "Demo Data 10-11-2010.pdf" deleted by Jay Rosan/Corp/Walgreens]

EXHIBIT 4

Message

From: Patty.Haworth@Walgreens.com [Patty.Haworth@Walgreens.com]
Sent: 4/29/2011 6:41:34 PM
To: Daniel Young [dyoung@theranos.com]
CC: Jay.Rosan@Walgreens.com; Sunny Balwani [sbalwani@theranos.com]
Subject: Re: Asthma Test - Patty Haworth

No further questions. Just wanted to make sure the device was working as expected.

Thank you for your quick response.

Patty

----- Original Message -----

From: Daniel Young [dyoung@theranos.com]
Sent: 04/29/2011 06:38 PM GMT
To: Patty Haworth
Cc: Jay Rosan; Sunny Balwani <sbalwani@theranos.com>
Subject: RE: Asthma Test - Patty Haworth

These data were sent to Dr. Jay on Tuesday. Dr. Jay has confirmed that he received the data.

Please let me know if you have any further questions.

Thanks,
Daniel

-----Original Message-----

From: Patty.Haworth@Walgreens.com [mailto:Patty.Haworth@Walgreens.com]
Sent: Friday, April 29, 2011 11:37 AM
To: Daniel Young
Cc: Jay.Rosan@Walgreens.com; Sunny Balwani
Subject: Fw: Asthma Test - Patty Haworth

Hi Daniel.

Any news? Thank you.

Patty

----- Original Message -----

From: Jay Rosan
Sent: 04/26/2011 10:24 PM EDT
To: Daniel Young; PhD
Cc: Patty Haworth

Subject: Fw: Asthma Test - Patty Haworth Dan I did not get any results on this. Did you get this and if not are you getting a heartbeat?

Dr. Jay Rosan
VP Health Innovation
Walgreens
484-351-3020 o;
jay.rosan@walgreens.com

----- Forwarded by Jay Rosan/Corp/Walgreens on 04/26/2011 10:23 PM -----

From: Patty Haworth/Corp/Walgreens
To: Jay Rosan/Corp/Walgreens@WALGREENS
Cc: Barbara Flohr/Corp/Walgreens@Walgreens

Date: 04/22/2011 04:35 PM

Subject: Asthma Test - Patty Haworth

Dr. Jay,

I just did a test on myself today to make sure the machine is still working. The ID is 271.0422.01. It was the Asthma test. My cell phone number is listed below.

Please let me know if you need additional information about this.

Thank you.

Patty Haworth
Program Manager, Corporate Innovation Team Walgreens
1415 Lake Cook Road MS L139
Deerfield, IL 60015
Phone: 847-964-8047

patty.haworth@walgreens.com

Consider the environment before printing this email.

EXHIBIT 5



FEDERAL BUREAU OF INVESTIGATION

Date of entry 12/18/2019

DR. JAY ROSAN was interviewed at San Francisco United States Attorneys Office. United States Postal Inspection Service (USPIS) Postal Inspector Christopher McCollow was present for the interview. Additionally, Assistant United States Attorney (AUSA) Robert Leach was present in-person. AUSA Jeffrey Schenk was present via telephone. Kristen Saywer and Stephen Sutro, Duane Morris, were present representing DR. ROSAN. After being advised of the identities of the interviewers and the nature of the interview, DR. ROSAN provided the following information:

DR. ROSAN graduated from Albright College for his undergraduate degree and the Philadelphia College of Medicine. DR. ROSAN was a Medical Doctor for family practice. DR. ROSAN practiced for about 15 years and then joined HMO Pennsylvania around 1982. DR. ROSAN worked there for 20 years. The company changed its name to US Healthcare. DR. ROSAN left when the company was purchased by Aetna. DR. ROSAN joined CHD Meridian Healthcare, a disease management company. Eventually the company began providing full healthcare centers for employees of companies. DR. ROSAN joined a new management team at the time. The company was purchased by WALGREENS (WAG) in 2008 or 2009. DR. ROSAN became the Vice President of Health Innovation for WAG. DR. ROSAN worked on the innovation team with COLIN WATTS as the Chief of Innovation. WATTS worked at Campbells, Johnson and Johnson, and Weight Watchers either before or after WALGREENS. The innovation team was charged with looking at companies who were changing where healthcare was going in the future.

DR. ROSAN left WAG in 2014. He and the CEO of CHD formed Medovation to help startups primarily in the healthcare space. They were working with five companies.

DR. ROSAN's first engagement with THERANOS was in early 2010.

[Agent Note: DR. ROSAN was shown documents Bates numbered THER-2436909 to

Investigation on 09/20/2019 at San Francisco, California, United States (In Person)

File # 318A-SF-7315857 Date drafted 09/23/2019

by CAMERON W W PURVES

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US-REPORTS-0012950

318A-SF-7315857

Continuation of FD-302 of (U) Interview of Dr. Jay Rosan , On 09/20/2019 , Page 8 of 11

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00006863 to WAG-TH-DOJ-00006864. This set of documents will be maintained in the 1A section of this case file.]

DR. ROSAN wanted approval by the government before moving forward. DR. ROSAN did not think HOLMES was pushing back on this, but DR. ROSAN wanted to push forward. DR. ROSAN did not think HOLMES was saying government approval was not necessary. DR. ROSAN discussed lab developed tests (LDTs) with BALWANI and HOLMES. THERANOS was thinking of a rental model with SAFEWAY, but WALGREENS did not think that was a good idea.

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00000181 to WAG-TH-DOJ-00000210. This set of documents will be maintained in the 1A section of this case file.]

Project Normandy was taking blood draws in store and testing them at a THERANOS location.

The slide on document Bates numbered WAG-TH-DOJ-00000189 was describing the process. The PSC was the patient side of the process. THERANOS was using their machines to run the tests. DR. ROSAN expected the tests were run on the THERANOS devices. The use of Siemens or similar machines would not have been in line with THERANOS' claims of more efficiency and higher quality machines.

WAG-TH-DOJ-00000209

DR. ROSAN had a THERANOS device in his office. Initially, DR. ROSAN had a prototype device and then received a second device to replace the first device. The second device seemed similar to the first device. DR. ROSAN never did comparison tests between the THERANOS device and competitors. The testing of WALGREENS executives was done on a THERANOS machine. DR. ROSAN never saw THERANOS financial statements. DR. ROSAN asked for them and saw other people ask for them, but he did not know if anybody from WALGREENS ever got them. HOLMES and BALWANI said they would provide the financial statements, but DR. ROSAN never got them.

[Agent Note: DR. ROSAN was shown documents Bates numbered WAG-TH-DOJ-00000048 to WAG-TH-DOJ-00000085. This set of documents will be maintained in the 1A section of this case file.]

EXHIBIT 6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
) CR-18-00258-EJD
 PLAINTIFF,)
) SAN JOSE, CALIFORNIA
 VS.)
) APRIL 15, 2022
 RAMESH "SUNNY" BALWANI,)
) VOLUME 18
 DEFENDANT.)
)
 _____) PAGES 2725 - 2841

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE
BY: JOHN C. BOSTIC
JEFFREY B. SCHENK
150 ALMADEN BOULEVARD, SUITE 900
SAN JOSE, CALIFORNIA 95113

BY: ROBERT S. LEACH
KELLY VOLKAR
1301 CLAY STREET, SUITE 340S
OAKLAND, CALIFORNIA 94612

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER:
IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

11:26AM 1 INTERVIEW WITH MS. WALSH A FEW MINUTES AGO?

11:26AM 2 A. YES.

11:26AM 3 Q. YOU TESTIFIED ON CROSS-EXAMINATION THAT, GENERALLY
11:26AM 4 SPEAKING, MS. HOLMES WAS THE FACE OF THE COMPANY; IS THAT
11:26AM 5 CORRECT?

11:26AM 6 A. YES.

11:26AM 7 Q. AND YOU WERE ALSO ASKED ABOUT WHETHER MR. BALWANI WAS
11:26AM 8 PRESENT FOR MS. HOLMES'S INTERVIEW FOR THIS ARTICLE.

11:27AM 9 DO YOU RECALL THAT?

11:27AM 10 A. YES.

11:27AM 11 Q. COULD I DIRECT YOUR ATTENTION TO PAGE 21 OF THAT ARTICLE,
11:27AM 12 THE TOP PARAGRAPH. I'LL JUST ASK YOU TO LOOK IT OVER. THE
11:27AM 13 PAGE NUMBERS ARE AT THE VERY BOTTOM.

11:27AM 14 A. OKAY. I SEE THAT.

11:27AM 15 Q. DOES THAT REFRESH YOUR RECOLLECTION THAT MR. BALWANI WAS
11:27AM 16 ALSO INTERVIEWED FOR THIS "FORTUNE" ARTICLE?

11:27AM 17 A. YES.

11:27AM 18 Q. OKAY. YOU CAN PUT THAT ASIDE. THANK YOU.

11:27AM 19 DO YOU RECALL DISCUSSING WITH MR. BALWANI'S COUNSEL THE
11:27AM 20 WALGREENS RELATIONSHIP AND THE FACT THAT WALGREENS APPARENTLY
11:27AM 21 HAD A THERANOS DEVICE IN ITS POSSESSION?

11:27AM 22 A. YES.

11:27AM 23 Q. DO YOU RECALL ANY OF THE DETAILS ABOUT WHEN THAT DEVICE
11:27AM 24 WAS PROVIDED TO WALGREENS OR FOR WHAT PURPOSE?

11:28AM 25 A. I DON'T.

11:28AM 1 Q. DO YOU KNOW, FOR EXAMPLE, WHETHER THAT DEVICE WAS CAPABLE
11:28AM 2 OF RUNNING ANY ASSAYS?
11:28AM 3 A. NO.
11:28AM 4 Q. DO YOU KNOW WHETHER THERANOS PROVIDED THE CARTRIDGES AND
11:28AM 5 REAGENTS 'THAT' WOULD BE NECESSARY 'TO ACTUALLY USE 'THAT' DEVICE AS
11:28AM 6 AN ANALYZER?
11:28AM 7 A. I DON'T.
11:28AM 8 Q. DO YOU KNOW WHETHER WALGREENS WAS PERMITTED TO EXAMINE THE
11:28AM 9 DEVICE, FOR EXAMPLE, TO OPEN IT UP AND LOOK AT THE COMPONENTS?
11:28AM 10 A. I'M NOT AWARE OF THOSE SPECIFIC CONVERSATIONS, BUT I
11:28AM 11 ASSUME THAT THEY WOULD NOT BE ALLOWED TO DO THAT.
11:28AM 12 Q. WHAT MAKES YOU ASSUME THAT THAT WOULDN'T BE PERMITTED?
11:28AM 13 A. IN MY EXPERIENCE, NO ONE OUTSIDE OF THE COMPANY WAS
11:28AM 14 PERMITTED TO DO THAT.
11:28AM 15 Q. SPEAKING OF THE COMPANY'S RELATIONSHIPS WITH OUTSIDE
11:29AM 16 PARTNERS, DO YOU RECALL DISCUSSING WITH MS. WALSH SOME OF THE
11:29AM 17 CONTACTS THAT THE COMPANY HAD WITH PHARMACEUTICAL COMPANIES?
11:29AM 18 A. YES.
11:29AM 19 Q. OKAY. AND YOU WERE SHOWN SOME INSTANCES IN 2013 WHERE
11:29AM 20 THERE WERE EMAILS AND DISCUSSIONS ABOUT SOME POSSIBLE FUTURE
11:29AM 21 DEALINGS.
11:29AM 22 DO YOU RECALL THAT GENERALLY?
11:29AM 23 A. YES.
11:29AM 24 Q. SITTING HERE TODAY, DO YOU HAVE A RECOLLECTION OF ANY OF
11:29AM 25 THOSE CONTACTS ACTUALLY TURNING INTO REAL REVENUE GENERATING

11:57AM 1 Q. AND SO TO THE EXTENT THAT HE WAS IN CHARGE OF THAT
11:57AM 2 CLINICAL LAB, IT WAS RELATED TO THE OPERATIONS; RIGHT?

11:57AM 3 A. RIGHT.

11:57AM 4 Q. THE GOVERNMENT ALSO ASKED YOU ABOUT THE DEVICE THAT WAS
11:57AM 5 SENT TO WALGREENS.

11:57AM 6 DO YOU REMEMBER THAT?

11:57AM 7 A. YES.

11:57AM 8 Q. AND WHETHER THE -- THAT DEVICE COULD RUN ASSAYS; RIGHT?

11:57AM 9 A. RIGHT.

11:57AM 10 Q. AND WHETHER WALGREENS HAD CARTRIDGES TO RUN THOSE ASSAYS;
11:57AM 11 RIGHT?

11:57AM 12 A. RIGHT.

11:57AM 13 Q. COULD WE PULL UP EXHIBIT 20550, WHICH IS IN EVIDENCE.

11:58AM 14 AND THIS IS AN EMAIL FROM YOU TO MR. BALWANI?

11:58AM 15 A. RIGHT.

11:58AM 16 Q. AND IN THE SECOND PARAGRAPH YOU SAY, "THERE ARE CURRENTLY
11:58AM 17 40 READERS IN THE FIELD FOR THE ABA TRIAL"; RIGHT?

11:58AM 18 A. YES.

11:58AM 19 Q. AND THIS IS THE EMAIL THAT CONTAINS THE STATEMENT ABOUT
11:58AM 20 WALGREENS HAVING ONE OF THOSE READERS; CORRECT?

11:58AM 21 A. CORRECT.

11:58AM 22 Q. AND A READER IS A DEVICE; RIGHT?

11:58AM 23 A. RIGHT.

11:58AM 24 Q. AND WITH REGARD TO THE 40 READERS IN THE FIELD FOR THE ABA
11:58AM 25 TRIAL, THEY ALL HAD CARTRIDGES; RIGHT?

11:58AM 1 A. RIGHT.

11:58AM 2 Q. AND THEY WERE ALL RUNNING TESTS; RIGHT?

11:58AM 3 A. RIGHT.

11:58AM 4 Q. AND SO DO YOU HAVE ANY REASON TO BELIEVE THAT THE DEVICE
11:58AM 5 'THAT' WALGREENS HAD, DID NOT HAVE CARTRIDGES?

11:58AM 6 A. I DON'T KNOW.

11:58AM 7 Q. AND DO YOU HAVE ANY REASON TO BELIEVE THAT IT COULD NOT
11:58AM 8 RUN TESTS?

11:58AM 9 A. NO.

11:58AM 10 Q. OKAY.

11:59AM 11 MS. WALSH: MAY I HAVE ONE MOMENT, YOUR HONOR?

11:59AM 12 THE COURT: YES.

11:59AM 13 (DISCUSSION AMONGST DEFENSE COUNSEL OFF THE RECORD.)

11:59AM 14 MS. WALSH: NO FURTHER QUESTIONS.

11:59AM 15 THE COURT: MR. BOSTIC?

11:59AM 16 MR. BOSTIC: NOTHING FURTHER, YOUR HONOR.

11:59AM 17 THE COURT: MAY THIS WITNESS BE EXCUSED?

11:59AM 18 MR. BOSTIC: YES, YOUR HONOR.

11:59AM 19 MS. WALSH: YES, YOUR HONOR.

11:59AM 20 THE COURT: YOU'RE EXCUSED, SIR. THANK YOU VERY
11:59AM 21 MUCH.

11:59AM 22 THE WITNESS: THANK YOU.

11:59AM 23 THE COURT: YOU CAN JUST LEAVE THE BINDERS THERE.
11:59AM 24 THEY'LL BE COLLECTED.

11:59AM 25 LADIES AND GENTLEMEN, WE'LL TAKE OUR WEEKEND BREAK NOW. I

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

DATED: APRIL 15, 2022